

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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IN RE: NEW ENGLAND  
COMPOUNDING PHARMACY, INC.  
PRODUCTS LIABILITY LITIGATION

v.

MDL No: 1:13-md-2419-RWZ

This Document Relates to:

Brady, et al. v. Unifirst Corporation, et al.  
No: 1:14-cv-10284-RWZ

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**DEFENDANTS, GURURAU SUDARSHAN, M.D.,  
CINCINNATI PAIN MANAGEMENT CONSULTANTS, INC. AND  
CINCINNATI PAIN MANAGEMENT CONSULTANTS, LTD'S  
MOTION TO DISMISS**

NOW COMES Defendants Gururau Sudarshan, M.D., Cincinnati Pain Management Consultants, Inc. and Cincinnati Pain Management Consultants, Ltd., and, pursuant to Fed.R.Civ.P. 12(b)(6) and Local Rule 7.1, hereby move to dismiss the plaintiffs' claims in Brady, et al. v. Unifirst Corporation, et al.. As more fully set forth in the accompanying consolidated Memorandum of Law, plaintiffs have failed to state a claim upon which relief can be granted.

The defendant health clinics (Cincinnati Pain Management Consultants, Inc. and Cincinnati Pain Management Consultants, Ltd.) and Dr. Sudarshan bear no legal responsibility for any harm allegedly suffered from the administration of preservative free methylprednisolone acetate ("MPA") manufactured and sold by New England Compounding Pharmacy, Inc. ("NECC"). Defendants had no role or responsibility in NECC's manufacturing and sterility practices or processes or for any deficiencies in its "clean room" which are alleged to have resulted in the fungal contamination of certain

lots or vials of MPA. Indeed, the efforts of plaintiffs to impose liability under negligence, agency, product liability and Ohio consumer protection law is without factual and legal support.

WHEREFORE, defendants, Gururau Sudarshan, M.D., Cincinnati Pain Management Consultants, Inc. and Cincinnati Pain Management Consultants, Ltd. respectfully request that their Consolidated Motion to Dismiss pursuant to Fed.R.Civ.P. 12(b)(6) and Local Rule 7 be **ALLOWED**.

Respectfully Submitted  
The Defendants  
Gururau Sudarshan, M.D., Cincinnati Pain  
Management Consultants, Inc. and Cincinnati Pain  
Management Consultants, Ltd.  
By their attorney

/s/ Tory A. Weigand

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on **March 14, 2014**

/s/ Tory A. Weigand

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**LOCAL RULE 7.1 CERTIFICATION**

The undersigned counsel for the defendant hereby certifies that he has conferred with counsel in this matter, in a good faith attempt to resolve or narrow the issues of dispute raised in the accompanying motion, in accordance with Local Rule 7.1.

/s/ Tory A. Weigand